the enforcement of a contract, they thereby directly qualify their promises, so that any change in the conditions obviously impairs the obligation. Of course if a contract specifies a remedy, such as distress for rent, which depends upon a particular legal process, the state is not precluded from abolishing the process. *Conkey* v. *Hart*, 14 N. Y. 22; *Worsham* v. *Stevens*, 66 Tex. 89, 17 S. W. 404. Such a stipulation is not thereby impaired, for it was either conditioned upon the continuance of the process, or invalid on grounds of policy. *Cf. Railroad Co.* v. *Hecht*, 95 U. S. 168. In the principal case the state court could not mean that the statute was incorporated into the contract in fact, and there is no reason to give to a fictitious incorporation the effect of a real condition precedent.

CONSTITUTIONAL LAW. — PRIVILEGES, IMMUNITIES, AND CLASS LEGISLATION — REGULATION OF TRADES: STATUTE PROHIBITING DISCRIMINATION BETWEEN DIFFERENT COMMUNITIES TO INJURE COMPETITORS. — A statute made it a crime for a producer, manufacturer, or distributor of any commodity in general use to sell in one community at a lower price than in another for the purpose of destroying the competition of an established dealer or those intending to become such. *Held*, that the statute is constitutional. *Central Lumber Co.* v. *South Dakota*, 226 U. S. 157, 33 Sup. Ct. 66.

The common law recognizes that there is a strong social interest in preserving competition, and hence discourages acts or contracts which unreasonably stifle competition. *King* v. *Waddington*, 1 East 143; *Alger* v. *Thacher*, 19 Pick. (Mass.) 51. A statute which makes criminal the practice of selling a commodity in one community at a lower price than is charged in another for the purpose of destroying competition, undoubtedly limits the freedom to contract. But so long as the restraints are not arbitrary and are in the interests of society, such a limitation may be justified. *Chicago, B. & Q. R. Co.* v. *McGuire*, 219 U. S. 549, 31 Sup. Ct. 259; *Gundling* v. *Chicago*, 177 U. S. 183, 20 Sup. Ct. 633. It is generally agreed that the social interest in preserving competition does justify such a statute as that in the principal case. *State* v. *Drayton*, 82 Neb. 254, 117 N. W. 768; *In re Opinion of the Justices*, 99 N. E. 294 (Mass.). Nor does such a statute deny equal protection of the laws merely because limited in its application to those selling in two places in the state. This classification is reasonable because this class of dealers is able to cause harm to the community beyond the power of ordinary storekeepers. Statutes equally limited in their application have been held constitutional. Thus a statute relating only to insurance companies has been held valid. *Carroll* v. *Greenwich Ins. Co.*, 199 U. S. 401, 26 Sup. Ct. 66. So, too, a law was upheld which applied only to those engaged in the sale of kerosene. *State ex rel. Young* v. *Standard Oil Co.*, 111 Minn. 85, 126 N. W. 527. See 26 HARV. L. REV. 32 *et seq.*

CONTRIBUTORY NEGLIGENCE — "LAST CLEAR CHANCE" DOCTRINE. — The plaintiff, while lying drunk on a street car track, was injured by a car belonging to the defendant. The lower court charged that, even though the plaintiff was negligent, if he was drunk and helpless and the motorman could, by the use of due care, have avoided the accident, the plaintiff might recover. *Held*, that the charge is erroneous. *Craig* v. *Augusta-Aiken Ry. Co.*, 76 S. E. 21 (S. C.).

The principal case seems to disregard the "last clear chance" doctrine which is now almost universally recognized. It is generally true that a plaintiff whose negligence contributed as a legal cause of his injury is precluded from recovery. *Neal* v. *Gillett*, 23 Conn. 437; *Payne* v. *Chicago & Alton R. Co.*, 129 Mo. 405, 31 S. W. 885. That severe rule, however, has been modified in several instances. Thus where a negligent

plaintiff has been damaged intentionally by the defendant, he can recover. *Steinmetz* v. *Kelly*, 72 Ind. 442. Also where the defendant observes the danger and proceeds with wanton disregard of consequences the damaged plaintiff is compensated. *Aiken* v. *Holyoke R. Co.*, 184 Mass. 269, 68 N. E. 238. And thus where the plaintiff, although negligent, is helpless to avoid the accident, and the defendant by the use of due care could avoid it, a recovery is allowed. *Nashua Iron and Steel Co.* v. *Worcester & Nashua R. Co.*, 62 N. H. 159. See *Nieboer* v. *Detroit Electric Ry. Co.*, 128 Mich. 486, 491, 87 N. W. 626, 628. As both would be liable to an injured third party, it is apparent that the "last clear chance" doctrine cannot be supported on the ground that the plaintiff's negligence was not a legal cause of the accident. It is in fact an arbitrary modification of a harsh rule; which is justified because in the great majority of cases it places the loss on the man who is most to blame. The now discredited rule of comparative negligence may have been more scientific, but the "last clear chance" doctrine is far easier of practical application, and does not lodge such unlimited power in the hands of the jury.

CORPORATIONS — CAPITAL, STOCK, AND DIVIDENDS — STOCKHOLDERS' RIGHT TO RECOVER DIVIDENDS INFORMALLY DECLARED. — The stockholders of a corporation, who included the directors, met and unanimously but without formal resolution agreed to a division of profits. Accordingly, credits were placed on the books to each of the stockholders, some of whom withdrew their share. Subsequently, the corporation became bankrupt. *Held*, that a stockholder has a provable claim for the amount credited him. *Spencer* v. *Lowe*, 198 Fed. 961 (C. C. A., Eighth Circ.).

After a dividend is properly declared and set aside, the stockholder may claim it against creditors of the corporation. *Le Roy* v. *Globe Ins. Co.*, 2 Edw. Ch. (N. Y.) 657; *Matter of Le Blanc*, 14 Hun (N. Y.) 8. If it is not segregated, he has a provable claim as a creditor. *McLaran* v. *Crescent Planing Mill Co.*, 117 Mo. App. 40, 93 S. W. 819. See *Hunt* v. *O'Shea*, 69 N. H. 600, 601, 45 Atl. 480. Where the power to declare dividends is vested in the directors, the stockholders perhaps cannot act. See *Grant* v. *Ross*, 100 Ky. 44, 48, 37 S. W. 263. But where all directors attend the meeting in which dividends are declared, and assent, this objection seems unavailable. See 2 MACHEN, CORPORATIONS, § 1191. But *cf. Gashwiler* v. *Willis*, 33 Cal. 11. The question then is as to the formality necessary to a proper declaration of dividends. Under statutes making directors liable for declaring illegal dividends, a distribution of profits is held a dividend. *Rorke* v. *Thomas*, 56 N. Y. 559; *Pennsylvania Iron Works Co.* v. *MacKenzie*, 190 Mass. 61, 76 N. E. 228. Where the rights of no third party are involved, and unanimous consent is given, informality of declaration does not prevent the stockholder from recovering a dividend. *Central of Georgia R. Co.* v. *Central Trust Co.*, 135 Ga. 472, 69 S. E. 708; *Barnes* v. *Spencer & Barnes Co.*, 162 Mich. 509, 127 N. W. 752; *Breslin* v. *Fries-Breslin Co.*, 70 N. J. L. 274, 58 Atl. 313. But *cf. Dennis* v. *Joslin Manufacturing Co.*, 19 R. I. 666, 36 Atl. 129. In the principal case, the court considers the trustee in bankruptcy as standing no better than the corporation. Moreover, the other stockholders had collected their dividends. Though informal, these cannot be recovered back. *Berryman* v. *Bankers' Life Ins. Co.*, 117 N. Y. App. Div. 730, 102 N. Y. Supp. 695. Consequently, to disallow the claim would be to enforce a preferential dividend. *Cf. Stoddard* v. *Shetucket Foundry Co.*, 34 Conn. 542.

CRIMINAL LAW — STATUTORY OFFENSES — DIVISIBILITY OF OFFENSE: PRACTICE OF MEDICINE WITHOUT LICENSE. — A statute prohibited the practice of medicine without a certificate. The defendant, without such certificate, opened an office as doctor and treated two patients on the same day and five